

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

LAURENCE STEWART,

Plaintiff,

vs.

MR. BERKEBILE, MS. ARNOLD,
MR. SPIEGLE, MR. WEAVER,
MIKE BATISTA, LORAIN
WOONIK, COLLEEN AMBROSE,
MR. STEWART, and JOHN DOES #
1-4,

Defendants.

CV 15-89-GF-BMM

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS**

Laurence Stewart filed a Complaint pursuant to 42 U.S.C. § 2983. (Doc. 2.) Stewart alleges that Defendants violated his First Amendment right to free speech and access to the court and his Fourth Amendment due process right.

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on February 19, 2016. (Doc. 7.) Judge Johnston

considered whether the Complaint proved frivolous or malicious, or failed to state a claim pursuant to 28 U.S.C. § 1915(e)(2), 1915A(b). (Doc. 7 at 1.) Judge Johnston determined that the Court should not dismiss the action at this time. *Id.* Judge Johnston recommended, however, that all John Doe Defendants should be dismissed without prejudice. (Doc. 7 at 5.)

Neither party filed an objection to Judge Johnston's Findings and Recommendations. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). The Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Courts do not favor the use of "John Doe" to identify a defendant. *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). A plaintiff may move to file an amended complaint to add defendants pursuant to Federal Rule of Civil Procedure 15 when the plaintiff learns of identities of parties he wishes to serve. The Court adopts Judge Johnston's Findings and Recommendations in full.

Accordingly, **IT IS ORDERED** that

1. Judge Johnston's Findings and Recommendations (Doc 7.) is

ADOPTED IN FULL.

2. All John Doe Defendants are **DISMISSED WITHOUT PREJUDICE.**

DATED this 15th day of March, 2016.

A handwritten signature in blue ink, reading "Brian Morris", is positioned above a horizontal line.

Brian Morris
United States District Court Judge